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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/613,742      | 07/11/2000  | Masayoshi Okura      | 046601-5053         | 1505             |

9629            7590            04/24/2002

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[REDACTED]  
EXAMINER

PHAN, JAMES

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2872     |              |

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                    |
|------------------------------|--------------------------------------|------------------------------------|
| <b>Office Action Summary</b> | Application No.<br><b>09/613,742</b> | Applicant(s)<br><b>Okura et al</b> |
|                              | Examiner<br><b>James Phan</b>        | Art Unit<br><b>2872</b>            |



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1)  Responsive to communication(s) filed on Feb 4, 2002.

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

4)  Claim(s) 1-12 is/are pending in the application.

4a) Of the above, claim(s) 5-8, 10, and 11 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-4, 9, and 12 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some\* c) None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3      20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election of the species (1) disclosed in the first embodiment including claims 1-4, 9 and 12 in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 5-8 and 10-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al.

Suzuki et al discloses an optical scanner comprising a rotary deflector having a driving motor. The driving motor includes a non-rotary section (fixed shaft 13) located at the center of rotation of the driving motor and a rotary section (21) for rotating a polygon mirror (25). The deflector further includes a mass member (magnet 33) fixed at the center of the top end of the stationary /fixed shaft 13 (see Fig. 1).

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In re claim 4 the mass (magnet 33) appears to be a plate-like member and is symmetrical about the center of gravity (see Fig. 1).

In re claim 12 see column 1, lines 10-12.

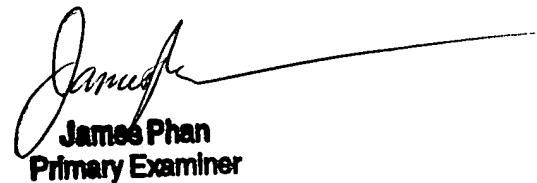
***Conclusion***

5. Any inquiry concerning this communication should be directed to James Phan whose telephone number is (703) 308-4810. The fax phone number for this Group is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Phan, J.

April 19, 2002



James Phan  
Primary Examiner